

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

*		}	NO. CV03-AHM
	Plaintiff,		CIVIL JURY TRIAL ORDER
v.			
*			
	Defendants.		
—			

This matter is set for trial before the Honorable A. Howard Matz, Courtroom 14 (1st Floor, Spring Street level), United States Courthouse, 312 North Spring Street, Los Angeles, California. To facilitate the efficient conduct of the pretrial conference and trial in this matter, all parties shall review carefully the following order and instructions re civil trials, as well as the Court’s Scheduling and Case Management Order.

I. Rule 9 Filings.

The parties must comply fully with the requirements of Local Rule 9. At the times set at the Mandatory Status Conference, they shall file carefully prepared Memoranda of Contentions of Fact and Law (which may also serve as the trial brief), along with their respective Witness Lists and Exhibit Lists, all in accordance with Local Rules 9.5, 9.6 and 9.7.

1 The parties shall complete the Trial Witness Time Estimate Form attached
2 to this Order and discussed at the Pre-Trial Conference, and deliver it to the Clerk
3 on the first morning of trial. Be realistic in each of your estimates; do not pad
4 your estimates or provide unreasonably short estimates. At the Pretrial
5 Conference, the opposing party will be expected to disclose to the Court an
6 estimate for his or her cross-examination of each witness identified by the other
7 side.

8 **II. Jury Instructions, Verdict Form and/or Special Interrogatories.**

9 Specifications and requirements for form and content of jury instructions
10 are set forth in the Scheduling and Case Management Order which the parties
11 received at the Scheduling Conference.

12 Unless all counsel agree to have the Court instruct the jury before closing
13 argument, the Court will instruct the jury after closing argument.

14 The Court will send copies of the jury instructions and verdict forms into
15 the jury room for use by the jury during deliberations.

16 **III. Agreed Statement of the Case.**

17 The parties shall jointly prepare a statement of the case which the Court
18 shall read to all prospective jurors at the beginning of voir dire. The statement
19 should not be longer than two or three paragraphs. The parties shall file their joint
20 statement with the Court at the PTC.

21 **IV. Trial Times.**

22 On the first day of trial, all counsel are to be present in the Courtroom and
23 ready to begin at 8:00 a.m. At that time, the Court will meet with counsel to
24 ensure that all matters necessary for resolution prior to trial are resolved. The
25 Court generally conducts trials on Tuesday through Friday from 8:00 a.m. to 1:30
26 p.m. on the first day of trial, and 8:00 a.m. to 1:30 p.m. on the remaining days,
27 with two 15 minute breaks during the course of the trial. This schedule is subject
28 to change.

1 **V. Jury Selection.**

2 The Court conducts voir dire of all prospective jurors. As specified in the
3 Scheduling and Case Management Order, the Court will consider each party's
4 timely filed proposed voir dire questions.

5 In selecting a jury, the clerk will initially seat the entire group of
6 prospective jurors in the benches toward the rear of the Courtroom. The Court
7 will then read the agreed-to statement of the case and determine whether any
8 prospective jurors should be excused for cause because, for example, they know a
9 lawyer, party or prospective witness. The Court will also determine whether the
10 length of the trial requires that other jurors be excused due to work constraints or
11 other issues. From the remaining pool of jurors, the Court Clerk will select
12 at random the names of 13 or 14 jurors who will be seated in the jury box. Each of
13 these prospective jurors will then answer a pre-printed form containing general
14 questions, including their name, occupation etc. The Court will then ask more
15 specific voir dire questions that have been individually tailored for the case.

16 Following the questioning of each of the 13-14 prospective jurors, each
17 party will be permitted three (3) peremptory challenges. To avoid the potential
18 embarrassment of a disallowed peremptory challenge on the grounds set forth in
19 *Batson v. Kentucky*, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986), before
20 openly exercising a peremptory, counsel should inform opposing counsel, and if
21 opposing counsel believes a *Batson* objection is in order s/he should request a side
22 bar. At side bar, the party with the *Batson* objection is expected to show
23 reasonable grounds to support the claim of bias before the party exercising the
24 peremptory will be called upon for an explanation. If there is no *Batson* objection,
25 however, counsel may openly exercise a peremptory challenge.

26 Following the resolution of all challenges, the first seven (7) of the jurors
27 placed in the box will be chosen as the jury panel for trials scheduled for four (4)
28 days or less. For trials scheduled for five (5) days or more, the first eight (8)

1 jurors placed in the box will be chosen as the jury panel.

2 ///

3 In complex or lengthy cases, the Court will consider the use of jointly-
4 proposed jury questionnaires. Because use of questionnaires requires the active,
5 time-consuming participation of the Jury Department, counsel desiring to use such
6 questionnaires shall contact the Court's Deputy Clerk, Stephen Montes (213-894-
7 5283), at least sixty (60) calendar days in advance of the trial date to inform him
8 that such a questionnaire will be proposed. He will then explain the necessary
9 procedures.

10 **VI. Exhibits.**

11 **A. Format.** The parties shall prepare their exhibits for presentation at
12 the trial by placing them in 3-ring binders in the following format:

- 13 1. Each binder shall be divided by tabs down the side with
14 corresponding exhibit numbers.
- 15 2. In the original set of exhibits to be filed with the Court and
16 maintained by the Courtroom Deputy during trial, each exhibit
17 shall be tagged with the appropriate exhibit tags in the lower or
18 upper right hand corner of the first page of each exhibit.
- 19 3. The exhibits shall be numbered in accordance with Local Rule
20 8.
- 21 4. The front of each notebooks shall contain a list of each exhibit
22 included.
- 23 5. Each party shall file an original and one copy of their exhibit
24 binder.

25 **B. Extra Copies of Exhibit and Witness Lists.** In addition to the
26 exhibit binders, the parties shall bring with them to the first day of trial three (3)
27 copies of their exhibit list and three (3) copies of their witness list in the order in
28 which the witnesses may be called to testify.

1 **C. Presentation to Jury.** In jury cases where a significant number of
2 exhibits are to be admitted, the Court encourages counsel, preferably by prior
3 agreement, to consider ways in which testimony about exhibits may be clarified
4 for the jury while it is being presented. Counsel may consider such devices as
5 overhead or ELMO projectors, jury notebooks for admitted exhibits, or blow-ups
6 of important exhibits. Counsel should take advantage of Federal Rule of Evidence
7 1006 (“Summaries”) to present voluminous evidence. Only in rare circumstances
8 will the Court permit counsel to pass exhibits up and down the jury box.

9 **D. Stipulation to Admissibility.** Not later than four (4) calendar days
10 before trial, the parties shall meet to stipulate as far as possible to foundation,
11 waiver of the best evidence rule and exhibits may be received into evidence at the
12 start of trial. The parties shall note the exhibits to which admissibility has been
13 stipulated on the exhibit list included in the front of the exhibit binder.

14 **VII. Courtroom Conduct.**

- 15 A. During trial, counsel shall not refer to their clients by their first name.
- 16 B. Opening statements, examination of witnesses, and closing arguments
17 shall be made from the lectern only. Counsel should feel free to turn
18 the lectern if they wish to address the jury directly.
- 19 C. Counsel should keep in mind that the purpose of an opening
20 statement is to inform the jurors of the nature of the case, the facts
21 they expect to be proved in the trial and the issues in the case. An
22 opening statement is *not* an argument to the jury, and it is *not*
23 permissible to attempt to argue to the jury about the application of the
24 law to the facts at this stage of the case.
- 25 D. Do not use objections for purposes of making a speech, recapitulating
26 testimony, or attempting to guide the witness. When objecting, state
27 only that you are objecting and the specific legal ground of the
28 objection, e.g., hearsay, irrelevant, etc. Only rarely will the Court

1 permit side-bar conferences about evidentiary issues during a jury
2 trial. Most unusual or complex evidentiary issues can be foreseen
3 and disposed of in advance; those that cannot ordinarily will be
4 disposed of at the next recess, with the witness retained until the issue
5 is resolved.

6 E. Counsel shall speak audibly and clearly when questioning a witness
7 or making an objection. Counsel should instruct their witnesses to
8 speak audibly and clearly as well. The microphone at the lectern is
9 powerful; you need not lean directly into it.

10 F. Obtain the Court's permission to approach a witness for the limited
11 purpose of placing a document (shown first to opposing counsel)
12 before the witness. If necessary to direct the witness's attention to
13 something in the document, counsel may remain adjacent to the
14 witness box for that limited purpose. Otherwise, counsel shall return
15 to the lectern when the purpose of the approach is finished.

16 G. Counsel shall rise when making an objection.

17 H. Counsel shall not, by facial expression, nodding, or other conduct,
18 exhibit any opinions, adverse or favorable, concerning any testimony
19 which is being given by a witness. Counsel shall admonish their own
20 clients and witnesses similarly to avoid such conduct.

21 I. When a party has more than one lawyer, only one may conduct the
22 direct or cross-examination of a given witness.

23 J. If a witness was on the stand at a recess or adjournment, have the
24 witness back on the stand and ready to proceed when court resumes.

25 K. Do not run out of witnesses. If you are out of witnesses and there is
26 more than a brief delay, the Court may well deem that you have
27 rested.

28 L. The Court attempts to cooperate with doctors and other witnesses

1 with restricted schedules and will, except in extraordinary
2 circumstances, accommodate them by permitting them to be called
3 out of sequence. Anticipate any such possibility and discuss it with
4 opposing counsel. If there is an objection, confer with the Court in
5 advance.

6 M. Counsel are advised to be on time, as the Court intends to start
7 promptly.

8 N. Do not attempt to use or display any enlargements of exhibits or
9 charts unless all counsel agree to such use, or the Court has ruled on
10 any objections in advance. This applies to opening statements as
11 well.

12 O. The maintenance of personal dignity requires care in the
13 pronunciation of a witness's name. If necessary, counsel should
14 inquire privately, in advance of the first reference to the name in
15 court, how a person pronounces his or her name and how he or she
16 prefers to be called (e.g., whether Maria Lopez Garcia prefers to be
17 referred to as Ms. Garcia or Ms. Lopez Garcia).

18 P. During recesses, counsel shall not congregate near the door that
19 jurors use to gain access to the jury room.

20 The Court thanks counsel in advance for their anticipated compliance with this
21 Order.

22
23 IT IS SO ORDERED.

24 DATED: _____, 2004

25 A. HOWARD MATZ
26 United States District Judge
27

28 * Copies of this and all other standard orders of this Court are available on the Central

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

District of California website, at “www.cacd.uscourts.gov,” under “Judge’s Requirements.”

JOINT TRIAL WITNESS TIME ESTIMATE FORM

CASE: _____

TRIAL DATE: _____

	WITNESS NAME	PARTY CALLING WITNESS AND ESTIMATE	X-EXAMINER'S ESTIMATE	DESCRIPTION OF TESTIMONY	COMMENTS
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
	TOTAL ESTIMATES THIS PAGE:				

Instructions:

(1) List witnesses (last name first); (2) For description, be extremely brief, e.g., “eyewitness to accident.” Or “expert on standard of care.” (3) Use estimates within fractions of an hour, rounded off to closest quarter of an hour. E.g., if you estimate 20 minutes, make it .25. An estimate of one and one-half hours would be 1.5. An estimate of three-quarters of an hour would be .75; (4) Note special factors in “Comments” column. E.g., “Needs interpreter.” (5) Entries may be in handwriting if very neat and legible.